

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

ANTHONY L. MCKINNEY,

Petitioner,

v.

CASE NO. 2:09-CV-00498

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge E.A. Preston Deavers

WARDEN, WARREN CORRECTIONAL
INSTITUTION,

Respondent.

OPINION AND ORDER

On March 14, 2011, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be dismissed. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. For the reasons that follow, Petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action hereby is **DISMISSED**.


Petitioner objects to all of the Magistrate Judge's recommendations. Petitioner argues at length that the trial transcript fails to support the state appellate court's factual finding that Terrell Craig identified Petitioner as the gunman and contends that the in-court identification of Petitioner by Craig and Jermaine Freeman must be suppressed as unduly suggestive. It is the position of Petitioner that Craig and Freeman lied and did not know Petitioner prior to the shooting. Petitioner objects to the Magistrate Judge's recommendation of dismissal of his claims as procedurally defaulted and without merit. He again raises all of the same arguments he previously presented.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review. For the reasons detailed in the Magistrate Judge's Report and Recommendation, this Court is not persuaded that the

record reflects a basis for federal habeas corpus relief. Petitioner's objections are **OVERRULED**.

The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action hereby is **DISMISSED**.

IT IS SO ORDERED.

 6-3-2011

EDMUND A. SARGUS, JR.
United States District Judge